
(2022) 06 DEL CK 0102

In the Delhi High Court

Case No : Civil Writ Petition No. 9500 Of 2022, Civil Miscellaneous No. 28358 Of 2022

M/S National Peroxide Limited

APPELLANT

Vs

Union Of India & Anr

RESPONDENT

Date of Decision : 13-06-2022

Acts Referred:

Anti-Dumping Rules, — Rule 23
Customs Tariff Act, 1975 — Section 9A(5)

Citation : (2022) 06 DEL CK 0102

Hon'ble Judges : Jyoti Singh, J;Anoop Kumar Mendiratta, J

Bench : Division Bench

Advocate : Pragyan Pradeep Sharma, Rajesh Sharma, Arunima Dwivedi

Final Decision : Disposed Of

Judgement

Jyoti Singh, J

1. Present writ petition has been filed on behalf of Petitioner with the following prayers:

a) A writ of certiorari or a writ, order or direction in the nature of certiorari so as to quash and set aside impugned notification no. 20/2022-Customs (ADD) dated 7th June, 2022 issued by the Respondent No.1; and

b) A writ, order or direction in the nature of mandamus, thereupon directing the Respondent No.1 to take a decision pursuant to Sunset Review Final Findings Notification F. No. 7/22/2021 (Case No. AD-(SSR) 18/2021) dated 11th March 2022 issued by the respondent no. 2, recommending imposition of anti-dumping duty for further period of five years and pass such other order(s) in accordance with law.

2. Insofar as prayer (a) is concerned, Ms. Arunima Dwivedi, Central Government Standing Counsel, who is appearing on advance copy, makes a statement on instructions, that as far as the notification bearing No.20/2022-Customs (ADD)

dated 07.06.2022, issued by Respondent No.1 is concerned, the same has not been published in the e-Gazette and is of no consequence in the eyes of law and thus no challenge can be laid to the same.

3. In view of the aforesaid statement, learned counsel for the Petitioner does not press prayer (a).

4. Learned counsel for the Petitioner further submits that the Sunset Review investigation initiated by Respondent No.2 in terms of Section 9A(5) of the Customs Tariff Act, 1975 (hereinafter referred to as the 'Act') read with Rule 23 of Anti-dumping Rules is complete and findings have been rendered on 11.03.2022. Section 9A(5) of the Act provides that the anti-dumping duty shall cease to have effect on completion of 5 years, unless the Designated Authority comes to a conclusion that the duty is required to be extended further. The Section further provides that the duty shall remain in force pending the outcome of such an enquiry. It is contended that imposition of anti-dumping duty confers certain rights on Petitioner and withdrawal thereof without following the due process of law curtails and violates those rights. Therefore, in view of the findings by Respondent No.2, a decision ought to be taken by Respondent No.1, without any delay.

5. Having heard the learned counsel appearing on behalf of the Petitioner and learned Central Government Standing Counsel appearing on behalf of the Respondents, directions are issued to Respondent No.1 to take a decision in the matter as expeditiously as possible and not later than ten days from today.

6. Needless to state that decision shall be taken in accordance with law and it is made clear this Court has not expressed any opinion on the merits of the case.

7. Writ petition is disposed of with the aforesaid directions.

8. Pending application also stands disposed of.